



Draft Trade Waste Bylaw: Statement of Proposal

Introduction

Tararua District Council seeks your views on its draft Trade Waste Bylaw 2024.

The current Trade Waste Bylaw was adopted on 31 October 2018 and was due for review by 31 October 2023. Due to resource constraints the review has been delayed. The 2018 Bylaw still has legal effect (under s 160A of the Local Government Act 2002 until it is automatically revoked on 31 October 2025 (unless replaced sooner). By replacing the expired Bylaw with a new, updated Bylaw, Council can continue to regulate trade waste and tanker discharges into Council's wastewater network.

This statement of proposal is prepared under sections 83 and 86 of the Local Government Act 2002 and contains:

- a copy of the draft Trade Waste Bylaw 2024 (the 'draft bylaw')
- information about the proposed amendments, including the key differences between the 2018 Trade Waste Bylaw and the draft bylaw; and Council's determinations under section 155 of the Local Government Act 2002;
- the reasons for the proposed amendments;
- how you can have your say; and
- timetable for consultation.

In summary, Council is proposing to retain most of the content of the Trade Waste Bylaw 2018, with an update in wording and editorial changes to make the bylaw easier to understand and consistent with other bylaws and legislation that has been introduced since the 2018 bylaw was adopted (including for example the Water Services Act 2021). The draft Bylaw provides an opportunity to make the requirements for trade waste clearer and more transparent.

Proposal

This statement of proposal relates to the review of the Trade Waste Bylaw and is prepared in line with sections 83, 83AA and 87 of the Local Government Act 2002.

The Council proposes that:

- (a) a new bylaw (the Trade Waste Bylaw 2024) should be made;
- (b) the Trade Waste Bylaw 2018 be revoked once the Trade Waste Bylaw 2024 comes into force.

The key changes are summarised in this Statement of Proposal and are set out in the draft bylaw (attached).

Proposed Changes

The substantive regulatory requirements in the current Trade Waste Bylaw have largely been replicated but have been reflected with different wording to better align the terminology used in the Bylaw with that used in other Council documents, but also in legislation (such as the Water Services Act 2021). The main proposed changes are summarised below (only substantive changes are listed):

Editorial

- Changes to wording and definitions to align with other documents and legislation and ensure clarity, including:
 - Change from ‘sewage system’ to ‘wastewater network’
 - ‘sewage’ to ‘wastewater’
 - Domestic sewage to domestic wastewater
- The bylaw has been reformatted / reordered to improve readability and flow of the document. Similar clauses have been grouped together to make the bylaw easier to read and understand and to remove duplication
- Redundant terms (such as abbreviations) have been removed
- The example application forms have been removed from the appendices and will now be found on Council’s website

Material

- Amendments to the purposes of the Bylaw to better align the bylaw with the special bylaw making powers for territorial authorities under s 146(b) of the Local Government Act 2002, by changing:
 - “ensure the protection of Council personnel and the general public” (current) to “Ensure the health and safety of all people from potential adverse effects of harmful substances discharged to the Wastewater System (draft)
 - “protect the ability of Council to meet the requirements of the Resource Management Act...” (current) to “protect the environment by ensuring compliance with the Resource Management Act...” (draft)
 - “provide for an equitable spread of costs between domestic and trade waste discharges” (current) to “provide for an equitable basis for charging trade waste users of the wastewater network” (draft)
- Clarifying in the definition of ‘trade premises’ that a trade premises does not include any part of Council’s wastewater network or treatment facilities.
- Adding clause 7.2: *Any person that discharges or proposes to discharge Trade Waste must contact Council to determine if a Trade Waste discharge is permitted, conditional or prohibited. Trade Waste must not be discharged into the wastewater network before Council has determined whether a consent is required.*
- Adding, at clause 16.1, considerations for Council when determining an application for consent as including:

- The compliance history of the applicant or any other person who is likely to be materially responsible for or involved with the discharge, with particular regard to compliance with any other trade waste consent;
- Any relevant Council planning documents, guidelines or policies;
- Any alternatives to the trade waste discharge, including the ways in which trade waste may be disposed of other than via the wastewater network; and
- Any other matter that the Council considers relevant when having regard to the purpose and terms of this Bylaw.
- Adding clause 19.4: *A consent holder who receives a written notice under clause 19.3 will be given a reasonable time period, specified in the notice, in which to comply with any varied consent conditions.*
- Adding clause 25.1(d): *in any case, where Council requires a meter as a condition of a consent for the measurement of the rate or quantity of discharge of Trade Waste.*

Background

Under sections 145 and 146 of the Local Government Act 2002, Council may make bylaws to:

- protect the public from nuisance;
- protect, promote, and maintain public health and safety;
- minimise the potential for offensive behaviour in public places; and
- manage, regulate against or protect against damage or misuse of land under the control of the territorial authority.

Council is also specifically mandated the ability to make a bylaw for the purpose of regulating trade wastes under s 146(1)(a)(iii) of the Local Government Act 2002.

Council is satisfied that there is legal authority for all provisions in the proposed bylaw. Council is also satisfied that the proposed bylaw is not repugnant to any existing laws, and that it is overall reasonable and drafted to provide sufficient certainty.

Legal Framework: s 155 determinations

Council must determine, pursuant to section 155 of the Local Government Act 2002, whether:

- A bylaw is the most appropriate way of addressing the perceived problem;
- The draft bylaw is the most appropriate form of bylaw; and
- The draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Council must also comply with the general decision-making requirements in sections 76 to 82 of the Local Government Act 2002 in that it must identify and consider all reasonably practicable options and the community's views.

Is a bylaw the appropriate means to deal with a problem?

The problem needs to be defined before determining whether a bylaw is the most appropriate method of addressing the perceived problem.

Benchmarking against other councils showed that issues related to trade waste were addressed through bylaws. A bylaw is also considered by staff to be the most appropriate mechanism to effectively deal with those issues.

The proposed bylaw aligns with the Local Government Act 2002 purposes above. Council is satisfied that the amended, proposed bylaw is the most appropriate form of bylaw. Other options such as taking an educational approach to issues, or not regulating trade waste were considered but determined to be inappropriate due to the need to ensure compliance for the safe and efficient working of Council's wastewater network.

Is the bylaw in the appropriate form?

The draft bylaw is the most appropriate form of bylaw. It places clear controls and restrictions on the regulation of trade waste. It allows for exceptions and special circumstances and is consistent with Council document standards and has been written in plain English so far as possible.

The final form of the bylaw will be determined after the Council has heard and considered submissions as part of a consultation process using the special consultative procedure.

Is the bylaw consistent with the New Zealand Bill of Rights Act 1990?

The purpose of the bylaw is to enable Council to manage trade waste and wastewater in accordance with the Local Government Act 2002. The regulatory controls provided under this draft bylaw are important to ensure the health and safety of people, Council's wastewater network, and the environment. It is therefore considered that the draft bylaw imposes no obvious infringements or implications with the New Zealand Bill of Rights Act 1990.

Following the prescribed special consultative procedure set out in section 83 of the Local Government Act 2002 Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights Act 1990 implications, if any.

Consultation

In making, amending or revoking a bylaw, Council must use the Special Consultative Procedure set out in section 83 of the Local Government Act 2002. Council has prepared and adopted the draft bylaw for public consultation. Any person can make a submission on the draft bylaw, and we invite you to have your say.

The following dates are relevant to the consultation process:

- (a) Council resolved to undertake public consultation regarding the Proposal at its meeting on 25 September 2024
- (b) Submissions open on 14 October 2024
- (c) Submissions close on 16 December 2024

Submissions will be heard before Council or a Committee at a time following the close of submissions, with Council considering the outcome of the consultation process and its

decision at a Council meeting some time following the hearing date, and likely to be in February 2025.

The key point to note is that consultation opens on 14 October 2024 and closes on 16 December 2024.

We encourage you to participate in this important consultation process.

There are several ways you can have your say. A submission form is provided with this document, or you can fill in your submission online.

How to get your submission to us:

Mail to: Draft Trade Waste Bylaw
Tararua District Council
PO Box 115
Dannevirke 4942

Email to: submissions@tararua.govt.nz

Deliver to: Council offices in Eketāhuna, Pahiatua, Woodville or Dannevirke

Online: <https://www.tararua.govt.nz/publications/consultation/current-consultation>

This Statement of Proposal is issued pursuant to section 155 of the Local Government Act 2002 and in compliance with sections 76AA, 82, 83 and 148 of the Local Government Act 2002.

Bryan Nicholson
Chief Executive

Attachments:

1. Draft Trade Waste Bylaw 2024
2. Report to Council on adopting the draft Trade Waste Bylaw 2024
3. Submission form